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No. 96-222

In The

Supreme Court of the United States

October Term, 1995

DUANE D. PAISLEY,

Plaintiff-Petitioner,

vs.

CITY OF MINNEAPOLIS,

Defendant-Respondent,

MINNEAPOLIS POLICE RELIEF ASSOCIATION,

Intervenor-Respondent.

Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eighth Circuit

DEFENDANT-RESPONDENT'S BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Plaintiff-Petitioner, Duane D. Paisley, waived any reemployment rights he may have had under 38 U.S.C. § [4324] 2024(d)?

PARTIES

The parties to this proceeding are Duane D. Paisley (hereinafter "Paisley"), the City of Minneapolis (hereinafter "City"), and the Minneapolis Police Relief Association (hereinafter "Relief Association").

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OPINIONS BELOW

The opinion of the Eighth Circuit Court of Appeals is reported at 70 F.3d 722 (8th Cir. 1996). (Paisley App. A-1 – A-9).[1] The opinion of the District Court is unreported. (Paisley App. A-10 – A-22).

JURISDICTION

The judgment of the Eighth Circuit Court of Appeals was entered on March 27, 1996. (Paisley App. A-1 – A-9). Paisley's Petition for Rehearing was denied on May 10, 1996. (*Id.* A-23). Paisley has prepared a Writ of Certiorari for review by the United States Supreme Court concerning the March 27, 1996, judgment based on the Supreme Court's jurisdiction under 28 U.S.C. § 1254.

STATUTORY PROVISION INVOLVED

The principal statutory provision involved is the Veterans Reemployment Rights Act, 38 U.S.C. § [4321] 2021 et seq. The full text of the Act is found in the appendix filed with Paisley's instant Petition. (Paisley App. A-28 – A-45).

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[1] "Paisley App." refers to the Appendix filed by Plaintiff-Petitioner, Duane D. Paisley, in his Petition for Writ of Certiorari.

STATEMENT OF THE CASE

This case arises from an action brought by Paisley against the City seeking a declaration of his right to reemployment with the City pursuant to the provisions of the Veterans Reemployment Rights Act (hereinafter, "the Act"). (Paisley. App. A-28 – A-45). Paisley seeks not only reinstatement, but compensation for accumulated sick leave, vacation time, and pension benefits from January 16, 1980, to date. (*Id.* at A- 46 – A-66). Because of Paisley's claim regarding compensation for pension benefits, the Minneapolis Police Relief Association moved to intervene, and its motion was granted January 6, 1995.

All parties then moved for summary judgment, and all motions were heard February 1, 1995. In an Order dated March 31, 1995, and filed April 3, 1995, the District Court granted the summary judgment motions of the City and the Relief Association. (Paisley App. A-10 – A-22). In that same Order, the District Court denied Paisley's motion for summary judgment, concluding that, although Paisley had established that he is a person entitled to reemployment rights under the Veterans Reemployment Rights Act, he had waived those reemployment rights. (*Id.*).

Paisley appealed to the Eighth Circuit Court of Appeals on the issue of whether he had waived his reemployment rights. The City and the Relief Association filed a cross-appeal on the issue of Paisley's eligibility for reemployment rights under the Act. On March 27, 1996, the Eighth Circuit Court of Appeals affirmed the District Court pursuant to its jurisdiction under 28 U.S.C. § 66(c)(3) and 28 U.S.C. § 1291. Paisley's request for a

rehearing was subsequently denied on May 10, 1996. (Paisley App. at A-1 – A-9).

Paisley enlisted in the National Guard in 1965. (Paisley App. A-46). From 1965 until 1980, Paisley was a traditional Guard member, serving one weekend a month and fifteen annual training days with the National Guard. (City App. A-13 – A-15).[2]

Upon joining the National Guard, Paisley went to basic training and advanced individual training. He was commissioned a Second Lieutenant, promoted to First Lieutenant in 1972, and to Captain in 1976. From 1979 to 1980, Paisley was the aide to the Adjutant General and, in 1980, was promoted to the rank of Major. (*Id.* at A-9, A-76).

In 1973, Paisley began employment with the City, in its Police Department, as a sworn police officer. (*Id.* at A-76). In 1979, Paisley requested a two-year leave of absence from his position with the City to go on active duty with the National Guard. The National Guard had offered Paisley this position, which he accepted. (*Id.* at A-19). Paisley's acceptance of this offer was purely voluntary: he would have suffered no penalty for refusing this offer for active duty. (*Id.* at A-21).

In 1981, Paisley requested that his leave of absence be extended for an additional two years, until 1984. (*Id.* at A-29). In seeking this extension of his leave of absence, Paisley cited to 38 U.S.C. § [4324] 2024(b)(1), stating that

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[2] "City App." refers to the Appendix filed by Defendant-Respondent, City of Minneapolis, in this Brief in Opposition.

he believed the provision entitled him to a four-year leave of absence. (*Id.* at A-69).

The City granted Plaintiff's request for an extension of his leave of absence, and Paisley remained on active duty with the National Guard. (*Id.* at A-27). Paisley later requested an additional leave of absence, to extend from 1984 to 1986, so that he could remain on active duty with the National Guard. (City App. A-29). The City granted this request for an additional leave of absence. (*Id.*).

Paisley could have left his active duty position with the National Guard at the time his initial leave of absence expired. (*Id.* at A-30). Paisley voluntarily requested leaves of absence from the City for the purpose of remaining in his position with the National Guard on full time active duty. (*Id.* at A-27). During the time he was on a leave of absence, it was Paisley's preference to remain on active duty with the National Guard rather than return to his employment with the City. (City App. A-29).

On October 18, 1985, Paisley requested that his leave of absence which, at that time, extended until January 15, 1986, be extended for an additional three years. (*Id.* at A-30 – A-31, A-69 – A-70). The City denied this request. (Paisley App. A-61). Also in 1985, Paisley requested that the City allow him permission to take a promotional examination for the position of police sergeant with the City. (*Id.* at A-56). On November 15, 1985, the City denied this request. (*Id.*).

On December 15, 1985, Paisley tendered his resignation to the City. (*Id.* at A-61). In Paisley's letter of resignation he wrote, "This difficult decision was prompted by the recent disapproval of my request for extension of a

military leave of absence to serve on active duty." Paisley went on to write, " . . . but for the fact that I was denied the opportunity to compete in the recent Sergeants [sic] promotional examination, my decision might have been otherwise." (*Id.*).

At the time Paisley tendered his resignation to the City, his career plans were to continue serving on active duty with the National Guard. (City App. A-41). Paisley tendered his resignation to the City knowing, at the time, that he could have returned to work with the City in its police department. (*Id.* at A-42). After Paisley's resignation, Paisley sought, and received, the amount due him under the pension plan for the City's police officers.

Paisley remained with the National Guard on active duty continuously from 1980 until September, 1994. (*Id.* at A-52). In 1984, he was promoted to Lieutenant Colonel, and, in 1988, was promoted to the rank of Colonel. (*Id.* at A-76 – A-78).

In May of 1994, Paisley was offered early retirement from the National Guard. (*Id.* at A-10). In the officer ranks of the National Guard, there is no mandatory retirement date. (*Id.* at A-12). If a person in those ranks chooses to leave the National Guard, he or she may do so at any time. (*Id.*).

Also in May of 1994, Paisley first sought reemployment with the City. (*Id.* at A-56). Paisley sought reemployment with the City at that time because he had then made the decision to retire from active duty with the National Guard. (City App. A-55). At no time between the time of Paisley's resignation from employment with

the City (December 15, 1985), and May, 1994, did Paisley seek reemployment with the City. (*Id.* at A-58).

Based upon the offer of early retirement, Paisley retired from the National Guard in September of 1994. (*Id.* at A-57). Paisley began receiving a pension based upon his military service at the time he retired from the National Guard. (*Id.* at A-57).

ARGUMENT

Petitioner Paisley claims that the Eighth Circuit Court of Appeals, in reaching its decision in this matter, decided an important federal question which conflicts with the decision of this Court in *King v. St. Vincent's Hospital*, 502 U.S. 215 (1991), 112 S.Ct. 570 (1991). However, the facts in this case clearly establish that the Eighth Circuit Court of Appeals properly held that Paisley waived his rights to reemployment under 38 U.S.C. § [4324] 2024 (d), and that there is no conflict between the Eighth Circuit's decision and that of this Court in *King*.

Paisley waived his rights to reemployment when he resigned his employment with the City in 1985. Paisley stated in his resignation, "Though I am disapointed [sic] to leave the department at this time, I am very appreciative of the support that I have been given and the opportunity I have had to accept several challenging assignments in the military." (Paisley App. A-61 – A-62). Moreover, Paisley acknowledged "There was no requirement I serve time or continue in the National Guard. I could have left at any time. (*Id.* at A-5).

The Eighth Circuit has held that reemployment rights under the Act may be waived if the employee does so "clearly and unequivocally." (Paisley App. A-5 (citing *Smith v. Missouri Pacific Transp. Co.*, 313 F.2d 676, 680 (8th Cir. 1963)). In *Smith v. Missouri Pacific Transp. Co.*, a retired Army colonel sought reinstatement to his civilian employment after almost eleven years of continuous military service. Only after being released from the military, upon reaching the age of sixty, did Smith seek civilian reemployment. The Eighth Circuit sustained the trial court's finding as to Smith's voluntary extension of his commitments in the Army, his intention to remain in the Army as long as possible, and as to his return to civilian employment being dependent upon his inability to remain in the service. *Id.* 313 F.2d at 680.

The Eighth Circuit affirmed the trial court's finding that Smith had waived any reemployment right he had by choosing a military, rather than a civilian, career. In doing so, the Court wrote that:

> In summary, we feel that the plaintiff's claim of protection under the facts of this case asserts too much and goes too far. To render a decision in favor of this plaintiff would be to recognize and to vest in one in his posture the power, step by step, as extension-of-duty opportunities present themselves, in effect to make a career of the service and at the same time to force his civilian employer to hold or to make a place available for him throughout the career period and until such time as he chooses to bring his military life to an end or until it is finally terminated for him because of age, physical disability, or the like. This, we think, was not the intent of Congress. Appropriate civilian reemployment protection

> at the end of a non-career period of service was what our national legislative body had in mind.

Id. 313 F.2d at 682-83.

Smith brought his suit under the Selective Service Training and Service Act of 1940, 54 Stat. 885, 890, and U.S.C. App. § 459(g). The Court, while noting that the 1940 Act contained no time limitation on employment rights, stressed the fact that the 1940 Act included nothing which would preclude a waiver of reemployment rights. *Smith v. Missouri Pacific Transp. Co.*, 313 F.2d at 682.

In the instant case, the Eighth Circuit stated:

> It is clear that Paisley voluntarily extended his active duty with the National Guard and that he voluntarily resigned from the police department in 1985. *See, Smith*, 313 F.2d at 681 (observing as a factor supporting waiver 'that the commitment and requests signed by the Colonel were executed voluntarily'). Moreover, there is no suggestion that Paisley did not understand his legal rights under the Act. *See id.*

(Paisley. App. A-6).

It is undisputed that, in order to find that a veteran waived his or her reemployment rights, that waiver must be "clearly and unequivocally indicated". *Loeb v. Kivo*, 160 F.2d 346, 349 (2d Cir. 1948); *Wright v. Ford Motor Co.*, 196 F. Supp. 538 (E.D. Mich. 1961). It must also be shown that the veteran was aware of the rights he or she was surrendering, and intended to abandon them. *Id.*

Given the reasoning of the Court in *Smith*, Paisley clearly exercised his choice to make a career with the military rather than with the police department. Not only

does Paisley's resignation demonstrate a "clear and unequivocal" waiver of his rights, Paisley sought and received the pension benefits and refunds to which he was entitled as a separated police department employee. (Paisley App. A-6). He stayed with the military until he retired in 1994 with more than fourteen years of continuous active duty service. (*Id.* at A-6). Based on these facts, the Eighth Circuit Court of Appeals, found that Paisley had "clearly and unequivocally" waived any statutory reemployment rights he may have had and opted for a military career rather than a career with the police department." (*Id.*).

Paisley argues that "the District Court and the Court of Appeals were seduced by the seeming similarity of the facts in *Smith* . . . " (Paisley Pet. p. 7). Specifically, Paisley states that *Smith* is no longer good law in light of the Supreme Court's decision in *King v. St. Vincent's Hospital*, 502 U.S. 215 (1991). In *King*, the employee sought a three-year leave of absence from his employment to take full-time appointment with the National Guard. (Paisley App. A-6). His employer denied the request and sought a declaratory judgment that the three-year request was unreasonable and that the employee therefore had no reemployment rights under the Act. (Paisley App. A-6 – A-7). This Court held that there was no durational limit on a leave taken under 38 U.S.C. § 2024(d), and that it would not read a "reasonable" limit to the length of a § 2024 leave after which the employee would be entitled to reemployment.

"To the extent that *Smith* can be read to suggest that a leave of absence for active guard duty must be of a 'reasonable length' in order to entitle a serviceman to

reemployment," the Eighth Circuit Court of Appeals admits that *Smith* was "overruled by *King*, at least for the brief time that *King* controlled the question. (Paisley App. A-7)." *King* left it to Congress to set any durational limits on leaves for the military service. Congress has now done this by passing the Uniformed Services Employment and Reemployment Rights Act of 1994, amending Chapter 43 of Title 38. This enactment sets a five-year limit, in most cases, on military leaves of absence.

Nonetheless, there was no issue of waiver in the *King* case. Therefore, its holding has no bearing on the question of whether a veteran may waive his reemployment rights. Nothing in the *King* decision indicates that it overrules *Smith*, or that *King* was intended to impact the issue of a person's ability to waive his reemployment rights.

Paisley clearly and knowingly waived his rights to reemployment by choosing a military career over his employment with the City. The Eighth Circuit Court of Appeals properly held that Paisley waived his rights of reemployment under 38 U.S.C. § [4324] 2024(d).

CONCLUSION

For the foregoing reasons, Defendant-Respondent City of Minneapolis respectfully requests that this Court deny Plaintiff-Petitioner Duane D. Paisley's Petition for Writ of Certiorari.

Dated: September 9, 1996

Respectfully submitted,

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[p. 1] UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Duane D. Paisley,

Plaintiff,

vs. File No.

City of Minneapolis,

Defendant.

Desposition of DUANE D. PAISLEY, taken pursuant to Notice of Taking Deposition, taken before Robert W. Walsh, a Notary Public in and for the County of Washington, State of Minnesota, on Tuesday, the 20th of December, 1994 at 300 Metropolitan Centre, in the City of Minneapolis, Minnesota, commencing at approximately 1:30 o'clock p.m.

* * *

[p. 3] APPEARANCES:

C. Lynne Fundingsland, Assistant City Attorney, 300 Metropolitan Centre, Minneapolis, Minnesota, appeared representing the Defendant.

Harry A. Sieben, Esquire, of the law firm of SIEBEN, GROSE, VON HOLTUM, McCOY & CAREY, LTD., 900 Midwest Plaza East, Minneapolis, Minnesota, appeared representing the Plaintiff.

Jon Cieslak, Esquire, Office of Adjutant General, appeared representing the Plaintiff.

* * *

WHEREUPON, the following proceedings were duly had:

* * *

(Whereupon Deposition Exhibit [sic] 1 through 11 marked for identification.)

DUANE D. PAISLEY

after having been first duly sworn, deposes and says under oath as follows:

EXAMINATION

BY MS. FUNDINGSLAND:

[p. 4] Q. Colonel Paisley, my name is Lynne Fundingsland, and I am representing the Defendant, the City of Minneapolis, in this matter.

And I am going to ask you some questions today, and hopefully won't make us too long, to try to get some information from you about this lawsuit.

And you have had your deposition taken before obviously?

A. Yes.

Q. So you know that we want to try not to talk over each other.

And certainly if I don't make any sense on one of my questions, let me know.

And if at any time, other than when a question is pending, you want to talk to your counsel here, just let me know and I will step out and you gentlemen can talk.

Can I get your full name for the record?

A. Duane, D-u-a-n-e, Daryl, D-a-r-y-l, Paisley, P-a-i-s-l-e-y.

Q. And what is your address, please?

A. 2731 Mackubin, M-a-c-k-u-b-i-n, Street, No. 14, Roseville 55113.

Q. And what is your date of birth?

A. 5-10-44.

[p. 5] Q. And can you tell me, please, what your educational background has been?

A. Graduated from high school in 1962 from Columbia Heights High School. Got a Bachelor's degree from Metropolitan State University. I have got a mini MBA from St. Thomas. Numorous military schools. And my latest military school was United States Army War College, graduating in June of '93.

Q. And tell me about your work background, please.

A. How far back do you want to go? In high school?

Q. After high school.

A. I because a law enforcement officer for the City of Anoka in 1972. I received information that I was eligible to be accepted as a Minneapolis Police Officer, so I left Anoka and came to Minneapolis. My – you want my military background?

Q. Please.

A. Joined the Guard in 1965. Went to Basic Training, Advanced Individual Training. Went to Officer Candidate School. Was commissioned a Second Lieutenant, honor graduate. Became a First Lieutenant, Captain.

Commanded the Military Police Company for [p. 6] five years.

Was General Sieben's Adjutant General's aide.

I then accepted a full-time position as a Captain on active duty. And my position there was Recruiting and Induction Officer.

Two years later I was promoted to Major. And became the Recruiting and Retention Manager.

Three years, four years later, I was the Training Administrator at the Minnesota Military Academy.

I then became the Support Personnel Management Officer, which is human resources in the military, and administered the program for 1,700 full-time employees.

I then became the Military Support Officer in '91, I believe it was. And my responsibilities there was to deal with law enforcement and emergency preparedness, military support to civilian authorities, key asset protection, and counter/drug operations.

I was offered an early retirement and I accepted it the 1st of September, 1994.

Q. So what is your current status now with the National Guard?

A. I am retired.

* * *

[p. 8] know?

MR. SIEBEN: You don't have a retirement date?

THE WITNESS: Pardon me?

MR. SIEBEN: You don't have a retirement date?

THE WITNESS: That's correct. There was no retirement date. I could have left at any time.

BY MS. FUNDINGSLAND:

Q. Okay. And why is that?

A. That's the way it is in the officer ranks. If you choose to separate, you can depart.

Q. Okay, is there any, is there a mandatory retirement age?

A. Yes, age 60.

Q. You are not there yet?

A. I am 50. Young 50.

Q. So that would have been another ten years?

A. Yes.

Q. Correct.

So you started in the National Guard – you are going to have to educate me here, because I don't know a whole lot about them, or what they do, or what you did there.

[p. 9] A. Okay.

Q. So I am not trying to be difficult. I just really don't know.

So you started with them in 1965?

A. Yes.

Q. And you have a rank when you go in?

A. Private.

Q. Okay. And is it – you enrolled?

A. Pardon me?

Q. Do you enroll? Do you enlist?

A. You enlist.

Q. Can people be drafted into that?

A. No.

Q. It's strictly voluntary?

A. Yes.

Q. So you went in as a private. What – tell me – like what happens? What do you do when you first get in there?

A. First you do is you go to basic training. Which consists of things that all soldiers are supposed to know. You then attend advanced individual training. Which qualifies you for a specialty, perhaps infantry or crew chief of military police or some specific position. It's called occupational specialty, military occupational [p. 10] specialty.

After you serve your initial six months with the Guard, you come home and do one weekend a month and fifteen annual training days. So you spend 39 days a month – correction. 39 days a year involved with the Guard.

Q. And when you do that weekend a month, what do you do there?

A. It depends on what your occupational specialty is. If you are a radio operator, you work on radios. If you are a military policeman, you would perhaps run traffic control point, or traffic law enforcement, or regular police duties. Apprehensions.

Q. So basically, I mean, and I don't want to tell you what happens out there, or what you want to say, but you are basically keeping people doing what they would be doing if we had –

A. Yes.

Q. – an emergency situation?

A. Yes.

Q. So it's like a military preparedness kind of –

A. Yes.

Q. So you keep your skills up in whatever your training area is?

[p.11] A. Yes. The only other thing is that the National Guard really wears two hats.

Q. Okay.

A. It serves at the discretion of the governor. Such as Operation Metro Mobility. We were called out on tornadoes at Stillwater and Cottage Grove. I probably been on ten or twelve tornadoes.

We also serve at the discretion of the president. Who can send us to Operation Desert Storm. As a matter of

fact, the MP Company I commanded for five years went to Desert Storm for eight or nine months during an emergency situation.

Q. Were you over there?

A. No.

Q. So it's a federal program, correct?

A. It can be federal, and it can also be state. But it is a federal program.

Q. Tell me how that works.

A. When you take an oath of office –

MR. SIEBEN: Very complicated.

A. When you take the oath of office, you take an oath to the governor as well as the president. Where in the regular Army, you are only taking an oath to the president. That's why the governor can't call up the 101st Airborne and utilize them in an

* * *

[p. 15] time you were on the department?

A. No, I was at the Fourth Precinct a very short time, and then I went to the Special Operations Division, or the old Tactical Squad.

Q. Was Jerry Larson your partner at the Fourth Precinct?

A. He was my partner at Special Operations.

Q. At Special Operations is it Lerch or the other one?

A. Lerch. J.A. Right.

Lerch is J.A. And the other one is J.M.

Q. And how long were you at Special Operations?

A. I think about five years. And I went from there to, I think back to the Fourth Precinct.

I then went to work for the Street Crime Unit.

I then worked for Organized Crime as an investigator.

And then I went back to the east side, Second Precinct I guess it was.

And then I was offered an active duty tour in the Army, and took it.

Q. So you were at the Second Precinct when you took the leave of absence, as well as you can remember?

[p. 16] A. It was either Second or Fourth. But one of the precincts. Because they had abandoned the Special Operations of the Street Crime Unit.

MS. FUNDINGSLAND: Excuse me one second.

(Brief recess.)

BY MS. FUNDINGSLAND:

Q. Okay, in 1979 you were working for the Police Department in either the Second or the Fourth Precinct?

A. Yes.

Q. And that's when you requested a leave of absence, right?

A. Yes.

Q. I got a stack here of exhibits that we are going to go through real quickly. And I have got copies so that we can just – all I want you to do is just verify what these are. And I think you have seen them before. Okay.

And you can look at both these two together. And I know they are really wonderful to read because it's old microfiche.

MR. SIEBEN: Weren't these in his other deposition?

MS. FUNDINGSLAND: They might have been, yes.

[p. 17] THE WITNESS: Yes.

BY MS. FUNDINGSLAND:

Q. This won't take us long.

But looking at Exhibits 1 and 2, these documents have to do with your first request for leave of absence in 1980, correct?

A. Yes.

Q. And that request was going to be for a two-year period, right?

A. Yes.

Q. And tell me now why you requested this leave of absence?

A. I requested a leave of absence to go on active duty with the Army.

Q. Okay. And what does that mean?

A. That means they offered me a position and I accepted it.

Q. They, the Army, or the National Guard? And if it's the same thing, then you got to tell me. Or if I am confusing the terms tell me.

A. It's the same thing.

Q. Okay.

A. Active duty assigned to the National Guard. But it's active duty. I was paid by the Army. I was a regular Army officer. I had a green I.D. card that

* * *

[p. 20] Q. And where were you stationed?

A. Minneapolis Armory.

Q. Colonel, if you will look at Exhibit 3. And I don't know if this is something that you know anything about or not. And if it's not, just tell me. Because I suspect this could be something that was just handled by personnel. But I don't know that.

And if I didn't say it, for the record, this is Exhibit No. 3. Which is a Report of Personnel Change dated January 26th, 1980.

A. I may have seen it in my last deposition, but I don't recall it.

Q. Oh, all right.

A. I know I hadn't seen it before the last deposition that took place two years ago.

Q. Okay.

So I would be correct in stating that you didn't see this in 1980?

A. That's correct.

Q. This would be one, though, I think you have seen. And this is Exhibit No. 4.

Q. Are you familiar with that?

A. Yes.

Q. And do you recall receiving this on or after October 17th, 1979?

* * *

[p. 23] A. Yes.

Q. So you weren't paid during that two-year period?

A. That's correct.

Q. The original leave of absence that you requested to be effective '80 to '82, did the National Guard require you to take that leave of absence?

A. Yes.

Q. And how was it that they required you to take that?

A. Placing me on orders.

MR. SIEBEN: Well, they didn't care if you took a leave of absence?

THE WITNESS: That's right.

MS. FUNDINGSLAND: Let me ask you this.

MR. SIEBEN: I don't think that that's really accurate to say they required you to take a leave of absence. They required you to accept your orders to go on active duty. But they didn't care what you did with your civilian employment.

THE WITNESS: That's correct.

BY MS. FUNDINGSLAND:

Q. What were the date of your orders?

A. I think November of '79 for two years.

* * *

[p. 25] Q. And when you requested a leave of absence to run from 1982 to 1984, did the National Guard require you to do that in order to stay employed with them?

A. They didn't require me to.

Q. Okay. And would the same be true for the leave that you requested that ran from '84 to '86?

A. The same would be true.

Q. And that leave of absence that you requested from 1984 to 1986 was also granted by the City, correct?

A. Yes.

Q. And am I fair then in assuming that you requested and got these leaves of absence from 1980 through 1986 so that you could remain in your position with the National Guard on full time active duty?

A. Yes.

Q. Could you have resigned?

MR. SIEBEN: Wait.

(Witness conferred with his counsel.)

THE WITNESS: What was the question?

MS. FUNDINGSLAND: That's a good question. Maybe this gentleman can read it back.

(Requested portion of the record was read by the reporter.)

[p. 26] BY MS. FUNDINGSLAND:

Q. Let me ask a different question. Maybe it's really what I am driving at anyway. Could you have stayed with the Minneapolis Police Department in the position that you had been in in 1980 when you took your leave of absence and still remained in your full time active duty position with the National Guard?

A. No.

Q. Okay. So you had –

MR. SIEBEN: I guess that's a legal question.

Of course he could. I mean, the federal law allows it.

BY MS. FUNDINGSLAND:

Q. I am not talking about just getting paid. I am talking about, would you have been physically able to continue working for the Minneapolis Police Department?

MR. SIEBEN: I see.

A. No.

BY MS. FUNDINGSLAND:

Q. At the same time. Okay. So physically you had to be one place or the other?

A. Yes.

Q. Is what I am driving at. And I guess my [p. 27] questions about the leave of absence maybe kind of misled you. And I didn't mean to. Because there obviously would be maybe other vehicles that you could have used to not be working for the City and be with the National Guard. But I was inquiring specifically about the leave.

But really what I am asking is, you had to have some status with the City, or you had to have some position with the City that would allow you to physically be with the National Guard from 1980 to 1986, correct? I mean, you couldn't be both places?

A. That's correct.

Q. So am I fair in assuming that it was your preference from 1980 to 1986 to be serving active duty with the National Guard as opposed to being physically working for the Minneapolis Police Department?

A. Yes.

Q. In other words, did anybody force you to do this?

A. Nope.

But it's kind of like a commitment. If your son is swearing into the Army, they are going to come and take

him away if he is on orders. So I was committed to serve. I left the department to go on

* * *

[p. 34] Q. Did you agree with the terms of that leave of absence that were set forth by Mr. Isaacson in that letter?

A. No.

Q. What did you not agree to?

A. One, that it was not just a leave of absence, it was a military leave of absence.

Q. Okay.

A. There were some concerns apparently from the Civil Service Commission because it was a voluntary –

Q. Leave?

A. – leave that it wasn't military. But after the JAG officer, the Army lawyer, talked to Bob Alfton, it was changed to a military leave.

Q. And is there anything else about that letter that you don't agree with? Or didn't at the time agree with.

A. The benefits I don't agree with. And also if a vacancy exists at the conclusion of your leave.

Q. I am sorry, what about the benefits that you don't – that no benefits will accrue?

A. Right.

Q. Did you do anything –

A. It also says here you would be eligible to complete a future promotional exam.

* * *

[p. 37] David Dobrotka, who I assume was Officer Dobrotka, Sergeant or officer?

A. Officer.

Q. Was he drafted, if you recall?

A. Yes.

Q. And he served two years?

A. I believe so, yes.

Q. He did not enlist?

A. I don't know.

Q. What is your best recollection?

A. I don't know.

Q. Did you ever speak with Chief Bouza or any of his chief deputies regarding Isaacson's decision not to allow you to take the promotional examination?

A. No.

Q. All right, in 1985, and prior to that, did you believe that you would be able to return to employment with the Minneapolis Police Department?

A. Yes.

Q. All right. And what made you believe that?

A. Because of the re-employment laws for Veterans.

Q. Okay, let's make sure we are talking about the same thing. Prior to – between 1980 and 1985.

A. Yes.

[p. 38] Q. Okay. Did you believe – I am sorry, let's say 1980 through January of 1986. Did you believe that you would be able to return to employment with the Minneapolis Police Department?

A. Yes.

Q. During that time period?

A. Yes.

Q. And that was the time period that you were on a leave of absence, correct?

A. Yes.

Q. So your status with the City was still leave of absence?

A. Yes.

Q. All right. During that time period did you ever request permission to return to employment with the Minneapolis Police Department?

A. No.

Q. You were in fact employed full time by the –

MR. SIEBEN: Army.

BY MS. FUNDINGSLAND:

Q. Thank you, counsel. By the Army during that period of 1980 to 1986?

A. Yes.

Q. You then tendered your resignation to the City on December 15th, 1985, correct?

* * *

[p. 45] exam?

A. No, that's not so.

MR. SIEBEN: Maybe there is a time in question. When was that Sergeant's exam denial?

BY MS. FUNDINGSLAND:

Q. Was that upcoming?

Okay, tell me what I am missing.

A. Okay, I received information that a promotional examination was going to be given. I requested that I be allowed to take the test. They refused. I requested it again. They refused. I asked for two more years, or a few more years of absence, because they wouldn't allow me to take the promotional examination.

Q. Okay.

A. So the promotional examination was here, the leave request was here, the resignation was here (indicating).

Q. Okay.

Let's try this again then. Because I think we are saying the same thing, just a little different way. You knew as of the time you tendered your resignation, December 15th, 1985, that you could come back to work as a Minneapolis Police Officer, correct?

A. Yes.

[p. 46] Q. But you believed at that time that if you did go back as a Minneapolis Police Officer you would not be allowed to take the next promotional exam for Sergeant, right?

A. The next promotional examination – if I would have taken the promotional examination, I would have come back to work for the City of Minneapolis.

Q. Okay. But you believed you were not going to be allowed to, correct?

A. I was already told I was not allowed to.

Q. That's my question.

A. I was told I was not allowed to.

Q. So would you have come back as a police officer if you had thought you could take the next promotional examination?

A. Yes.

Q. If it had not been for the fact that you had been denied the right to take your promotional examination you would not have requested the additional three-year leave of absence?

A. That's correct.

Q. And when then would you have returned to work?

A. Probably whenever my request was up, my previous leave of absence request. In other words, [p. 47] if it was 1 January '84 to 1 January '86, I would have come back 1 January '86.

Q. Yes. And I believe it was about January of '86 when it was up?

A. Yes.

Q. So when you state in your December 15th, 1985 resignation letter, Exhibit 8, and I quote, "but for the fact I was denied the opportunity to compete in the recent Sergeants' promotional examination, my decision might have been otherwise." Are you stating now today that that decision absolutely would have been otherwise?

A. Yes.

Q. So you are saying today that unequivocally had you been allowed to compete in the Sergeants' examination you would have come back to work for the City of Minneapolis?

A. Yes.

Q. And you are saying that even though you know there was absolutely no guarantee that you would have received a promotion as Sergeant?

A. That's correct.

Q. So at the time that you tendered your resignation you then intended to pursue a career with the Army?

[p. 49] A. Yes.

Q. In the same career basically that you had been in from 1980 to that time?

A. Yes.

Q. When you resigned from the City of Minneapolis, and I will have you take a look at Exhibit No. 9

there, you then asked for your benefits to be sent to you from the pension fund, is that correct?

A. Yes.

Q. And do you have any idea what the date of Exhibit 9 would have been ball park-wise?

A. It was quite sometime after my resignation. As a matter of fact, I believe I was snowmobiling with Ron Kastner, and he said, "If you drop me a line I will give you back a portion of your contribution."

Q. So probably January, February, '86?

A. Yes.

Q. And the Ron on Exhibit 9 is Ron Kastner?

A. Right.

Q. From the Police Pension, Police Relief Association?

A. Yes.

Q. And then look, please, if you would, look just at Exhibits 10 and 11. Just tell me what these [p. 49] are.

A. Exhibit 10 is the Minneapolis Police Relief Association letter. Signed by Ron Kastner. Indicating I was receiving $100 for each full year of service.

Q. And that $100 for each six full years of service, did that, was that what the pension, the Relief Association owed you as of February, '86?

A. It might have been what they owed me, but it wasn't all that I had paid in.

Q. I understand. But under the plan as it was then, the plan was $100 for every year of service?

A. Right.

Q. And then tell me what Exhibit 11 is, please.

A. Exhibit 11 is a Minneapolis Police Relief Association letter dated February 28th, 1986, indicating that there is a check enclosed, "that were withheld from your wages at the beginning of your employment," signed by Kathy Nasi.

Q. And would I be fair in saying that your activity in the National Guard has been continuous from 1965 to September of this year?

A. Yes.

Q. And from '65 to January, '80, you were not active duty?

[p. 50] A. That's correct.

Q. And from January, '80 until September, 1994 you were active duty?

A. That's correct.

Q. And that was your employment?

A. That's correct.

MR. SIEBEN: Probably had a little active duty in '65 and '66?

THE WITNESS: Right, there was some active duty, various schools, two weeks of active duty.

BY MS. FUNDINGSLAND:

Q. Let me put it this way. Full time active duty?

A. Well, in 1969 I spent three months at Fort Bennington, Georgia, various training –

Q. Okay.

A. – required.

Q. Let me ask you this then. From 1980 to September, 1994, were you continuously on full time active duty with the Guard?

A. Yes.

Q. All right. And do you recall what salary you were earning when you retired?

A. $57,600 is my base pay.

[p. 51] Q. And can you now give me – you did this in the beginning, but now I want you to put some dates with them, your promotions up through the ranks. And if you can't give me months, years are fine, Colonel.

A. Can I look at my resume?

Q. Absolutely.

MS. FUNDINGSLAND: In fact if you are going to refer to that, counsel, would you have any objection to my having a copy and marking it as an exhibit?

MR. SIEBEN: Go ahead.

(Whereupon Deposition Exhibit 12 marked for identification.)

BY MS. FUNDINGSLAND:

Q. All right. Just take a look then, sir, if you would, at Exhibit No. 12. And that's your resume that you just handed me?

A. Yes.

Q. Or a copy of it?

A. Yes.

Q. And everything on there is true and accurate?

A. To the best of my knowledge.

Q. And that reflects your movement throughout the National Guard throughout the years? And your [p. 52] achievements with that organization?

A. Yes.

Q. When we talk about POST certification, we both know what that is, right?

A. Yes.

Q. Do you want to just state, so it's on the record, what that means?

A. Police Officer Standards Training Board controls licensing of police officers in the State of Minnesota. You must be licensed to perform your duties.

Q. All peace officers within the State of Minnesota must be licensed or POST certified, correct?

A. Yes.

Q. And you are currently POST certified?

A. Yes.

Q. And you have been continuously since probably when you started with Anoka, correct?

A. No, it was not in effect with Anoka. But with Minneapolis.

Q. With Minneapolis. All right.

Now you resigned effective December 15th, 1955. Can you tell me, please, when was the first time that you sought re-employment with the City of Minneapolis in your current position as a police [p. 53] officer?

MR. SIEBEN: Don't guess at it.

THE WITNESS: Can we go off the record for a minute?

MS. FUNDINGSLAND: Yes.

(Discussion had off the record.)

MS. FUNDINGSLAND: Back on the record.

BY MS. FUNDINGSLAND:

Q. All right, when did you first seek re-employment with the City of Minneapolis?

A. May of 1994.

Q. And do you recall the month?

A. May.

Q. And what prompted you to then seek re-employment with the City of Minneapolis?

A. I was leaving active duty.

Q. And coincidentally that month is the same as when you found out about the early retirement?

A. Yes.

Q. Is that when you made the decision to leave active duty with the Guard?

A. Yes.

Q. And your leaving active duty at that point was totally voluntary on your part?

A. Yes.

[p. 54] Q. In other words, you could have stayed until the retirement age of 60?

A. That's correct.

Q. But you chose to take an early retirement?

A. Yes.

Q. And prior to that time – well, did, at any time prior to you starting with your – strike that.

Any time between 1985 and 1994, did you seek re-employment with the City, May of 1994?

A. Did I seek prior –

Q. Did you seek employment with the City between your resignation date of December 15th, 1985 and May of 1994?

A. No.

Q. And you were employed full time by the National Guard up until May of 1994?

A. Full time active.

Q. Full time active.

MS. FUNDINGSLAND: Okay, I don't believe I have anything further.

MR. SIEBEN: Not on the record.

(Discussion had off the record.)

MR. SIEBEN: I will just ask a couple questions to clear that up.

EXAMINATION

[p. 55] BY MR. SIEBEN:

Q. Mr. Paisley, you were asked about how long you could have stayed on active duty in the Army. And I believe you indicated age 60. And apparently that's one of the deadline dates for active duty service. But what was the effective deadline date that you were faced with, and then what were the variables that could have cut even that date short?

A. Mandatory retirement age is age 60. You also serve at the discretion of the Commander, who has a Selective Retention Board, could discharge you or terminate your orders. And there is also a mandatory removal date, which in my case was 1998. And it's 30 years of commissioned service or age, as a Colonel, age 55, whichever comes longer.

Q. Okay. And how about this 20 years of AGR status?

A. AGR status, you can only serve 20 years as an officer, and your tour will not be renewed.

Q. What would that date have been for you?

A. 1998.

Q. So under any circumstances under the current federal law could you have served beyond 1998?

A. No.

[p. 56] Q. And you would be, in '98 you will be what, 54?

A. Fifty-four.

Q. Fifty-four years old?

A. Yes.

Q. And the downsizing of the Army has been going on in recent years, too? You have had some experience with that with people in your command, haven't you?

A. Yes.

Q. And does that have the effect of kicking people out short of their otherwise normal dates for retirement?

A. Yes, it does.

Q. And you had not been ordered yet to retire?

A. That's correct.

Q. But was there a downsizing going on in the Army, the active duty Army people that were assigned to the Minnesota National Guard, that had the potential of affecting your longevity there?

A. Yes, it did.

Q. Did you want to go back to the City of Minneapolis as a police officer?

A. Yes.

Q. And do you still want to go back to the City [p. 57] of Minneapolis as a police officer?

A. Yes.

MR. SIEBEN: Let's go off the record.

(Discussion had off the record.)

MR. SIEBEN: Let's go back on the record.

BY MR. SIEBEN:

Q. Who is Santo?

A. Al Santo is an employee of the City of Minneapolis who went on an active duty tour, served, I believe, three of four years, most of which was in Guam, and came back to work for the City.

Q. As a cop?

A. No, he works for Housing, I believe, now, He was in –

MS. FUNDINGSLAND: Public works.

A. Public works.

MS. FUNDINGSLAND: Still is.

BY MR. SIEBEN:

Q. As far as you know, are you legally qualified to be a peace officer and a member of the Police Department?

A. Yes.

Q. You have maintained your POST certification?

[p. 58] A. Yes.

MR. SIEBEN: That's all I have.

EXAMINATION

BY MS. FUNDINGSLAND:

Q. Colonel Paisley, when you resigned from the City of Minneapolis in 1985, I had asked you before whether you had, at that time had chosen a career then with the Army National Guard, and you said, yes, correct?

A. Yes.

Q. Could you have chosen another career if you had wanted to?

I mean assuming you had the interest and were qualified for it, could you have chosen a totally different career?

A. Certainly.

MR. SIEBEN: Brain surgeon or something like that.

BY MS. FUNDINGSLAND:

Q. So what you did when you resigned from the City, basically it was voluntary on your part what career you chose?

A. Yes.

MR. CIESLAK: If you object to the characterization career, is her word, not your word

* * *

EXHIBIT NO. 5

DUANE D. PAISLEY
3151 BENJAMIN ST. N. E.
MINNEAPOLIS, MINN. 55418

7 December 1981

Mr. Brian Isaacson
Personnel Director
Personnel Department
Civil Services Commission
312 Third Ave. So.
Minneapolis, MN 55415

Re: Request for Military Leave

Dear Mr. Isaacson:

The purpose of this letter is to request that my military leave from the Minneapolis Police Department be extended for a period of two years from and after January 15, 1982, the date on which my present military leave would otherwise expire. This request is made pursuant to United States Code, Title 38, Part III, Chapter 43, Sections 2021 to 2026 which requires the granting of such military leave without loss of seniority, status, pay, and vacation.

The basis for this request is that I will have had two years of active duty, as defined by United States Code, Title 36, Section 2024(b)(1), as of January 15, 1982, and said section provides that I may serve four years of such active duty without loss of seniority, status, pay and vacation.

I wish also to point out that my request would appear to be in line with the suggestion of Mayor Fraser that leaves of absence be encouraged in view of the

present difficult financial situation of the City of Minneapolis.

It therefore, would be appreciated if you would forward to me written confirmation of the granting of my request for military leave for the period of January 15, 1982 to January 15, 1984. If you desire any written evidence of my military status, or if you wish any other information relative to this request, please contact me accordingly.

Thank you for your courtesy and consideration.

Very truly yours,

/s/ Duane D. Paisley
Duane D. Paisley

EXHIBIT NO. 6

DUANE D. PAISLEY
3151 BENJAMIN ST. N. E.
MINNEAPOLIS, MINN. 55418

18 October 1985

Mr. Brian Isaacson
Personnel Director
Personnel Department
Civil Service Commission
City of Minneapolis
312 3rd Avenue South
Minneapolis, MN 55415

Re: Request for Continued Military Leave

Dear Mr. Isaacson:

I am serving as a Commissioned Officer of the Minnesota Army National Guard on active duty under terms of a Military leave of absence from the Minneapolis Police Department. This leave extends to January 15, 1986. I respectfully request that this leave be extended for a period of three years from that date.

I have and will continue to pursue courses of continuing education for the purpose of maintaining my Police Officers Standards and Training licence. An extension of my leave of absence will permit me to advance the important work of the Minnesota Military Academy where I am a Lieutenant Colonel, and the Training Administrator. It will also offer a Battalion level Command. These opportunities for leadership and service to our Community, State, and Nation are consistent with and complement the duties and responsibilities I am sworn to uphold as a Police Officer.

Thank you for your consideration in this regard.

Very truly yours,

/s/ Duane D. Paisley
Duane D. Paisley

EXHIBIT NO. 9

Duane D. Paisley
3151 Benjamin St. N. E., Minneapolis, Minn. 55418

Ron,

Please send me any benefits I am entitled to from the Police Pension Fund.

Thanks you for your assistance.

Duane D. Paisley

EXHIBIT NO. 10

MINNEAPOLIS POLICE RELIEF ASSOCIATION
(POLICE PENSIONS)
312 South Third Street, Room 150
MINNEAPOLIS, MINNESOTA 55415
(612) 341-8980

February 14, 1986

Mr. Duane D. Paisley
3151 Benjamin St. N.E.
Minneapolis, MN 55418

Dear Duane:

Minnesota State Statute 423.745 Sub. 2, entitles you to a payment of $100.00 per full year of service. According to Police Personnel Records you are entitled to $100.00 for six years of service. Enclosed is a check for $600.00. The following is the computation from the Personnel Records.

Date of Employment:	6/4/73
Date of Resignation:	12/15/85
Leave of Absence:	1/26/80-12/15/85
Total Leave of Absence:	5 years, 10 months, 19 days

Total on duty time is six full years. If you have any questions, please contact me.

Sincerely,

/s/ Ron
Ronald Kastner
Secretary

RK/rt

Enclosure

EXHIBIT NO. 11

MINNEAPOLIS POLICE RELIEF ASSOCIATION
(POLICE PENSIONS)
312 South Third Street, Room 150
MINNEAPOLIS, MINNESOTA 55415
(612) 341-8980

February 28, 1986

Mr. Duane D. Paisley
3151 Benjamin St. N.E.
Minneapolis, MN 55418

Dear Duane:

The enclosed check is the pension dues that were withheld from your wages at the beginning of your employment. The city always withholds the first week's salary.

If you have any questions, please contact me.

Sincerely,

/s/ Kathy Nasi
Kathy Nasi
Administrative Assistance

KN/rt
Enclosure

PAISLEY

EXHIBIT NO. 12

BIOGRAPHICAL DATA

DUANE D. PAISLEY

PERSONAL

Home Address:	2731 Mackubin Street #14 Roseville, Minnesota 55113
Date of Birth:	20 May 1944
Telephone:	(612) 482-7882

EDUCATION

High School:	Columbia Heights High School Columbia Heights, Minnesota
College:	Metropolitan State University – B.A. Degree Public Administration Saint Paul, Minnesota
	College of Saint Thomas – M.M.B.A. Degree Business Administration
Specialized Training:	Minneapolis Police Recruit School (1972) Minnesota Bureau of Criminal Apprehension (1973) F.B.I. Academy, Quantico, Virginia – Anti-Sniper, Rifle Marksmanship, Officer Survival, (S.W.A.T.) (1975) Alcohol, Tobacco & Firearms School, Criminal Investigator's Course (1975)

Dignitary Protection School (1977)
In-Service Training, Minneapolis Police Department (1974-1985)
Licensed Police Officer – State of Minnesota

WORK EXPERIENCE

Minnesota National Guard – Military Support/Counter-drug Program (1992-Present)

Minnesota National Guard – Full-Time Support Personnel Officer – The Adjutant General's Office – Saint Paul, Minnesota (1986-1992)

Battalion Commander – 1st Battalion, 136th Infantry (November 1987-April 1988)

Minnesota National Guard – Training Administrator – Minnesota Military Academy (1983-1986)

Minnesota National Guard – Recruiting and Retention Manager (1981-1983)

Minnesota National Guard – Recruiting and Induction Officer (1979-1981)

Minneapolis Police Department – Organized Crime – Investigative Unit, Investigator; Sting Operations, undercover buying, surveillance, gambling and fencing operations (November 1978-September 1979)

Minneapolis Police Department – Street Crime Unit – Selective Enforcement (July 1978-November 1978) (Deputy Chief O'Mera)

Minneapolis Police Department – Second Precinct – Patrol (March 1978-July 1978) (Captain Goodrie)

Minneapolis Police Department – Special Operations Division – Special Weapons and Tactics (November 1973-March 1978) (Captain Mudge)

Minneapolis Police Department – Fourth Precinct – Patrol (September 1973-November 1973) (Captain Finn)

Minneapolis Police Department – Recruit School – (June 1973-September 1973) (Captain Blanche)

Anoka Police Department – Patrol (September 1972-June 1973)

TEACHING AND LECTURING (ALL CURRENT)

Minnesota State Certified Police Instructor in defense tactics, physical fitness, barricaded suspects, hostage situations, entry team tactics.

Defensive Tactics Instructor, Metropolitan State University, for the Minnesota Police Officers Standards Training Board.

Nationally Certified Instructor for Police Self-Defense.

Criminal Justice Instructor at Normandale Junior College.

Instructor for the Minneapolis School System, Youth in Pursuit of Criminal Justice.

Lecturer at Various Metropolitan Law Enforcement Agencies.

Guest Lecturer at numerous civic organizations (V.F.W., Exchange Clubs, ect.).

Instructor for Minneapolis Police Reserve.

AWARDS AND ACCOMPLISHMENT

Numerous Police Commendations and Letters of Merit (1973 – Present)

Medal of Honor, Minneapolis Police Department (1974)

Commendation, Saint Paul Police Department (1974)

Red Cross Life Saving Award, signed by President Gerald Ford (1975)

Appeared on the Merv Griffen Show and, with George Kennedy and the Police Show, "The Blue Knight", after being selected as one of the top Police Officers in the United States of America. (1976)

Appeared in Motorola training film, "Dealing with Death" (1977)

Police Officer of the Year by V.F.W. Military Order of the Purple Heart (1977)

Certificate of Appreciation – International Association of Women Police (1978)

Letter of Appreciation – Stearns County Sheriff's Office (1982)

President – Minnesota National Guard Officer's Association – 3 years

President – Twin Cities Garrison Club – 2 years

MILITARY ACCOMPLISHMENTS

Active Duty Tour – Military Support/Counterdrug Program (1992 – Present)

Promoted to Colonel (1988)

Active Duty Tour – Support Personnel Management Officer (1986 - 1992)

Battalion Commander – 1st Battalion, 136th Infantry (1987 - 1988)

Active Duty Tour – Training Administrator – Minnesota Military Academy (1983 - 1986)

Promoted to Lieutenant Colonel (1984)

Active Duty Tour – Recruiting and Retention Manager (1981 - 1983)

Active Duty Tour – Recruiting and Induction Officer (1979 - 1981)

Promoted to Major (1980)

Minnesota Adjutant General's Aide-de-Camp (1979 - 1980)

State Provost Marshal, Minnesota Army National Guard (1979 - 1980)

Commanding Officer, 257th Military Police Company (1975 - 1980)

Promoted to Captain (1976)

Executive Officer, 257th Military Police Company (1975)

Executive Officer, 47th Infantry Division, Headquarters Detachment (1974)

Tactical Officer, Minneapolis Military Academy (1972)

Promoted to First Lieutenant (1972)

Officer Candidate School, Minneapolis Military Academy – Graduated Second Lieutenant – Honor Graduate (1968)

Minnesota Army National Guard, United States Army, Helicopter Crew Chief (1965 - 1967)

Educational Services Officer – 2 years

Employer Support Guard/Reserve Executive Director – 4 years

Escort Officer – Secretary of the Army (1986)

Commander of Troops – Swedish Exchange (1985)

Accompanied The Adjutant General to Ecuador (1987)

MILITARY SCHOOLS

Graduate of U.S. War College (1993)

Graduate of Command and General Staff College (1982)

Sales and Management Training of Atlanta, sponsored by Minnesota Army National Guard (1980)

Recruiting and Retention Management School (1979)

National Guard Winter Operations Instructor School (1978)

Military Police Officer Career Course (1977)

Military Officer Basic Course (1973)

Infantry Officer Basic Course (1969)

MILITARY AWARDS

Expert Infantryman's Badge

Aircraft Crewmember Badge

Meritorious Service Medal with 2nd Award
Army Commendation Medal

Army Achievement Medal

National Defense Service Medal

Humanitarian Service Medal

Armed Forces Reserve Medal with 4th Award

Army Reserve Components Achievement Medal and Hourglass Device

Army Service Ribbon

Overseas Ribbon

Minnesota Commendation Medal

Minnesota National Guard Good Conduct Medal

Minnesota State Active Duty Ribbon with 9 Awards

Minnesota National Guard Distinguished Recruiting Ribbon with 5th Award

State Service Medal with 20 years Device

Army National Guard Master Recruiter Badge

Minnesota